

# SENATE BILL 1302

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CF HB 1802

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By: **The President (By Request – Administration)**

Introduced and read first time: May 14, 2012

Assigned to: Budget and Taxation

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## A BILL ENTITLED

1 AN ACT concerning

2 **State and Local Revenue and Financing Act of 2012**

3 FOR the purpose of altering the State income tax rate on certain income of  
4 individuals; altering the amount allowed as a deduction for certain exemptions  
5 under the Maryland income tax under certain circumstances; modifying a  
6 fiduciary's adjusted gross income to add back that portion of an electing small  
7 business trust consisting of stock of one or more S corporations that is subject to  
8 special taxing rules under certain provisions of the Internal Revenue Code;  
9 altering certain tax rates for certain cigars and certain tobacco products;  
10 providing that, for purposes of the recordation tax, secured debt with respect to  
11 certain mortgages, deeds of trust, and other security interests in real property  
12 securing a guarantee of repayment of a loan for a certain amount is deemed to  
13 be incurred as debt is incurred on the guaranteed loan and, with respect to  
14 those mortgages, deeds of trust, and other security interests, the recordation tax  
15 applies in a certain manner; altering the amount of certain fees; repealing a  
16 certain exemption to the sales and use tax for certain sales in the form of a  
17 demurrage charge; repealing a certain modification for purposes of determining  
18 Maryland taxable income for certain public utilities; repealing a certain credit  
19 against the State income tax for certain public utilities; requiring the  
20 Comptroller to waive certain interest and penalties for a certain calendar year  
21 to a certain extent; authorizing the Comptroller to provide an alternative  
22 method of assessing and collecting a certain additional tax; requiring certain  
23 revenue to be remitted to the Comptroller by a certain date; repealing an  
24 obsolete provision; requiring the State Department of Assessments and  
25 Taxation to establish a certain workgroup; providing for the duties, composition,  
26 and chair of the workgroup; requiring the workgroup to submit a certain report  
27 to the Governor and the General Assembly by a certain date; defining certain  
28 terms; providing for the application of certain provisions of this Act; and  
29 generally relating to State and local revenues and finances.

30 BY repealing and reenacting, with amendments,

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Tax – General  
2 Section 10–105(a), 10–211(b), and 12–105(b)  
3 Annotated Code of Maryland  
4 (2010 Replacement Volume and 2011 Supplement)

5 BY repealing and reenacting, without amendments,  
6 Article – Tax – General  
7 Section 10–204(a) and 10–211(a)  
8 Annotated Code of Maryland  
9 (2010 Replacement Volume and 2011 Supplement)

10 BY adding to  
11 Article – Tax – General  
12 Section 10–204(k)  
13 Annotated Code of Maryland  
14 (2010 Replacement Volume and 2011 Supplement)

15 BY adding to  
16 Article – Tax – Property  
17 Section 12–105(f)(7)  
18 Annotated Code of Maryland  
19 (2007 Replacement Volume and 2011 Supplement)

20 BY repealing and reenacting, with amendments,  
21 Article – Health – General  
22 Section 4–217(c)(1)  
23 Annotated Code of Maryland  
24 (2009 Replacement Volume and 2011 Supplement)

25 BY repealing and reenacting, with amendments,  
26 Article – State Government  
27 Section 9–1604(b)(1)(vi)  
28 Annotated Code of Maryland  
29 (2009 Replacement Volume and 2011 Supplement)

30 BY repealing  
31 Article – Tax – General  
32 Section 10–306(c), 10–708, and 11–202  
33 Annotated Code of Maryland  
34 (2010 Replacement Volume and 2011 Supplement)

35 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
36 MARYLAND, That the Laws of Maryland read as follows:

37 **Article – Tax – General**

38 10–105.

1 (a) (1) [Except as provided in paragraph (3) of this subsection, for] **FOR**  
2 an individual other than an individual described in paragraph (2) of this subsection,  
3 the State income tax rate is:

4 (i) 2% of Maryland taxable income of \$1 through \$1,000;

5 (ii) 3% of Maryland taxable income of \$1,001 through \$2,000;

6 (iii) 4% of Maryland taxable income of \$2,001 through \$3,000;

7 (iv) 4.75% of Maryland taxable income of \$3,001 through  
8 **[\$150,000] \$100,000;**

9 (v) 5% of Maryland taxable income of **[\$150,001] \$100,001**  
10 through **[\$300,000] \$125,000;**

11 (vi) 5.25% of Maryland taxable income of **[\$300,001] \$125,001**  
12 through **[\$500,000] \$150,000; [and]**

13 (vii) 5.5% of Maryland taxable income **[in excess of \$500,000] OF**  
14 **\$150,001 THROUGH \$250,000; AND**

15 **(VIII) 5.75% OF MARYLAND TAXABLE INCOME IN EXCESS OF**  
16 **\$250,000.**

17 (2) [Except as provided in paragraph (3) of this subsection, for] **FOR**  
18 spouses filing a joint return or for a surviving spouse or head of household as defined  
19 in § 2 of the Internal Revenue Code, the State income tax rate is:

20 (i) 2% of Maryland taxable income of \$1 through \$1,000;

21 (ii) 3% of Maryland taxable income of \$1,001 through \$2,000;

22 (iii) 4% of Maryland taxable income of \$2,001 through \$3,000;

23 (iv) 4.75% of Maryland taxable income of \$3,001 through  
24 **[\$200,000] \$150,000;**

25 (v) 5% of Maryland taxable income of **[\$200,001] \$150,001**  
26 through **[\$350,000] \$175,000;**

27 (vi) 5.25% of Maryland taxable income of **[\$350,001] \$175,001**  
28 through **[\$500,000] \$225,000; [and]**

1 (vii) 5.5% of Maryland taxable income [in excess of \$500,000] OF  
2 \$225,001 THROUGH \$300,000; AND

3 (VIII) 5.75% OF MARYLAND TAXABLE INCOME IN EXCESS OF  
4 \$300,000.

5 [(3) For a taxable year beginning after December 31, 2007, but before  
6 January 1, 2011, the State income tax for an individual, including spouses filing a  
7 joint return or a surviving spouse or head of household as defined in § 2 of the Internal  
8 Revenue Code, is:

9 (i) for Maryland taxable income up to \$500,000, the rate  
10 specified in paragraph (1)(i) through (vi) or (2)(i) through (vi) of this subsection; and

11 (ii) for Maryland taxable income in excess of \$500,000:

12 1. 5.5% of Maryland taxable income of \$500,001 through  
13 \$1,000,000; and

14 2. 6.25% of Maryland taxable income in excess of  
15 \$1,000,000.]

16 10-204.

17 (a) To the extent excluded from federal adjusted gross income, the amounts  
18 under this section are added to the federal adjusted gross income of a resident to  
19 determine Maryland adjusted gross income.

20 (K) FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2012, THE  
21 ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES THE AMOUNT OF  
22 INCOME OF AN ELECTING SMALL BUSINESS TRUST, AS DEFINED UNDER §  
23 1361(E)(1) OF THE INTERNAL REVENUE CODE, THAT IS SUBJECT TO THE  
24 SPECIAL TAXING RULES UNDER § 641(C) OF THE INTERNAL REVENUE CODE.

25 10-211.

26 (a) Except as provided in subsection (b) of this section, whether or not a  
27 federal return is filed, to determine Maryland taxable income, an individual other  
28 than a fiduciary may deduct as an exemption:

29 (1) \$3,200 for each exemption that the individual may deduct in the  
30 taxable year to determine federal taxable income under § 151 of the Internal Revenue  
31 Code;

32 (2) an additional \$3,200 for each dependent, as defined in § 152 of the  
33 Internal Revenue Code, who is at least 65 years old on the last day of the taxable year;



1 12-105.

2 (b) (1) [The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
3 SUBSECTION, THE tobacco tax rate for other tobacco products is [15%] 30% of the  
4 wholesale price of the tobacco products.

5 (2) (I) IN THIS PARAGRAPH, "PREMIUM CIGARS" HAS THE  
6 MEANING STATED IN § 16.5-101 OF THE BUSINESS REGULATION ARTICLE.

7 (II) EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS  
8 PARAGRAPH, THE TOBACCO TAX RATE FOR CIGARS IS 70% OF THE WHOLESALE  
9 PRICE OF THE CIGARS.

10 (III) THE TOBACCO TAX RATE FOR PREMIUM CIGARS IS 15%  
11 OF THE WHOLESALE PRICE OF THE PREMIUM CIGARS.

12 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
13 read as follows:

14 **Article – Tax – Property**

15 12-105.

16 (f) (7) (I) IN THIS PARAGRAPH, "INDEMNITY MORTGAGE"  
17 INCLUDES ANY MORTGAGE, DEED OF TRUST, OR OTHER SECURITY INTEREST IN  
18 REAL PROPERTY THAT SECURES A GUARANTEE OF REPAYMENT OF A LOAN FOR  
19 WHICH THE GUARANTOR IS NOT PRIMARILY LIABLE.

20 (II) EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS  
21 PARAGRAPH:

22 1. SECURED DEBT WITH RESPECT TO AN INDEMNITY  
23 MORTGAGE IS DEEMED TO BE INCURRED FOR PURPOSES OF THIS SUBSECTION  
24 WHEN AND TO THE SAME EXTENT AS DEBT IS INCURRED ON THE GUARANTEED  
25 LOAN; AND

26 2. THE RECORDATION TAX APPLIES UNDER THIS  
27 SUBSECTION IN THE SAME MANNER AS IF THE GUARANTOR WERE PRIMARILY  
28 LIABLE FOR THE GUARANTEED LOAN.

29 (III) THIS PARAGRAPH DOES NOT APPLY:

1                   **1. TO THE EXTENT THAT RECORDATION TAX IS PAID**  
2 **ON ANOTHER INSTRUMENT OF WRITING THAT SECURES PAYMENT OF THE**  
3 **GUARANTEED LOAN; OR**

4                   **2. TO AN INDEMNITY MORTGAGE THAT SECURES A**  
5 **GUARANTEE OF REPAYMENT OF A LOAN FOR LESS THAN \$1,000,000.**

6           SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
7 read as follows:

8                                   **Article – Health – General**

9           4–217.

10           (c)    (1)    Except as otherwise provided by law:

11                           (i)    The Department shall collect a \$12 fee:

12                                   1.    For each certified or abridged copy of a [death,] fetal  
13 death, marriage, or divorce verification certificate;

14                                   2.    For a report that a search of the [death,] fetal death,  
15 marriage, or divorce verification certificate files was made and the requested record is  
16 not on file;

17                                   3.    For each change to a [death,] fetal death, marriage, or  
18 divorce verification certificate made later than one year after the certificate has been  
19 registered with the Department; or

20                                   4.    To process an adoption, foreign adoption, or  
21 legitimation; [and]

22                           (ii)   The Department shall collect a \$24 fee:

23                                   1.    For each certified or abridged copy of a birth  
24 certificate;

25                                   2.    **FOR THE FIRST COPY OF A CERTIFIED OR**  
26 **ABRIDGED DEATH CERTIFICATE ISSUED IN A SINGLE TRANSACTION;**

27                                   3.    For a report that a search of the birth **OR DEATH**  
28 certificate files was made and the requested record is not on file; or

29                                   **[3.] 4.** For each change to a birth **OR DEATH** certificate  
30 made later than 1 year after the certificate has been registered with the Department;  
31 **AND**

1                   **(III) THE DEPARTMENT SHALL COLLECT A \$12 FEE FOR**  
2 **EACH ADDITIONAL CERTIFIED OR ABRIDGED COPY OF A DEATH CERTIFICATE**  
3 **PROVIDED CONCURRENTLY WITH AN INITIAL REQUESTED DEATH CERTIFICATE.**

4                   **Article – State Government**

5 9–1604.

6           (b)   (1)   The Chief Administrative Law Judge may:

7                   (vi)   assess fees to cover administrative expenses as follows:

8                           1.   to file an appeal, a fee not exceeding:

9                                   A.   **[\$125] \$150** for an appeal of a driver's license  
10 suspension or revocation related to a violation of the Maryland Vehicle Law; and

11                           B.   \$50 for all other types of appeals; and

12                           2.   to process a subpoena, a fee not exceeding \$5.

13           SECTION 5. AND BE IT FURTHER ENACTED, That Section(s) 10–306(c) and  
14 10–708 of Article – Tax – General of the Annotated Code of Maryland be repealed.

15           SECTION 6. AND BE IT FURTHER ENACTED, That Section(s) 11–202 of  
16 Article – Tax – General of the Annotated Code of Maryland be repealed.

17           SECTION 7. AND BE IT FURTHER ENACTED, That the Comptroller shall  
18 waive any interest or penalty imposed on an individual relating to payment of  
19 estimated income tax for calendar year 2012 to the extent that the Comptroller  
20 determines that the interest or penalty would not have been incurred but for an  
21 increase in the income tax rates or reduction in the amount that may be deducted as  
22 an exemption for calendar year 2012 under Section 1 of this Act.

23           SECTION 8. AND BE IT FURTHER ENACTED, That, as provided in §  
24 12–105 of the Tax – General Article, all other tobacco products used, possessed, or held  
25 in the State on or after July 1, 2012, by any person for sale or use in the State, shall be  
26 subject to the full tax on other tobacco products, as enacted under this Act. The  
27 Comptroller may provide an alternative method of assessing and collecting the  
28 additional tax. The revenue attributable to this requirement shall be remitted to the  
29 Comptroller by October 15, 2012.

30           SECTION 9. AND BE IT FURTHER ENACTED, That:



1 (a) The State Department of Assessments and Taxation shall establish a  
2 workgroup to study the impacts of imposing the recordation tax on indemnity  
3 mortgages and deeds of trust as provided under this Act, including:

4 (1) The expected tax revenues to be collected for local governments;

5 (2) The impacts of the tax, if any, on the forms, volume, and value of  
6 commercial real estate transactions in urban, suburban, and rural areas of the State  
7 and on the overall commercial real estate market in the State; and

8 (3) The impacts of the tax, if any, on residential real estate  
9 transactions.

10 (b) The workgroup shall include representatives from various stakeholder  
11 groups, including, but not limited to, representatives of State agencies, local  
12 governments, commercial real estate organizations, business organizations, and the  
13 Maryland Bankers Association.

14 (c) The Director of Assessments and Taxation, or the Director's designee,  
15 shall chair the workgroup and facilitate the activities of the workgroup.

16 (d) The workgroup shall submit a report of its findings and recommendations  
17 under this section, including a detailed description of the process used and the data  
18 relied on by the workgroup, to the Governor and, subject to § 2-1246 of the State  
19 Government Article, the General Assembly, on or before December 31, 2012.

20 SECTION 10. AND BE IT FURTHER ENACTED, That Section 5 of this Act  
21 and §§ 10-105(a) and 10-211(b) of Article – Tax – General of the Annotated Code of  
22 Maryland as enacted by Section 1 of this Act shall be applicable to all taxable years  
23 beginning after December 31, 2011.

24 SECTION 11. AND BE IT FURTHER ENACTED, That Sections 2 and 6 of this  
25 Act shall take effect July 1, 2012.

26 SECTION 12. AND BE IT FURTHER ENACTED, That Section 3 of this Act  
27 shall take effect July 1, 2012, and shall be applicable to all instruments of writing  
28 recorded on or after July 1, 2012.

29 SECTION 13. AND BE IT FURTHER ENACTED, That, except as otherwise  
30 provided in this Act, this Act shall take effect June 1, 2012.